

# In the Court of Appeals of the State of Alaska

**Michael C Redfox,**

Appellant,

v.

**State of Alaska,**

Appellee.

Court of Appeals No. **A-13506/A-13592**

## **Order**

Date of Order: **February 24, 2022**

Trial Court Case No. **4EM-10-00104CR**

The Public Defender Agency represents Redfox in these appeals. The agency recently filed a motion asking this Court to sever the Rule 45 issue from these appeals and to appoint conflict-free counsel to represent Redfox on that issue. The agency, citing the current appellate litigation in *Public Defender Agency*, Case No. A-13508, explains that it has a positional conflict on the Rule 45 issue. In addition, the agency requests that the Court stay the briefing schedule in these appeals pending resolution of this motion.

The State agrees that the agency has a positional conflict of interest and does not oppose the motion to sever the Rule 45 issue and to appoint conflict-free counsel to represent Redfox on that issue. The State does, however, oppose the agency's request for a stay, arguing that this Court should consider that request as a nonconforming motion for an extension of time.

This Court agrees that the agency has a conflict of interest on the Rule 45 issue because of the position it is advocating in *Public Defender Agency*, Case No. A-13508. Accordingly, conflict-free counsel must be appointed to represent Redfox on that issue.

With regard to the requested stay, the Court agrees with the State that it is best considered a non-conforming motion for an extension of time. The Court is concerned

about how long it took for the positional conflict to be recognized in this case, and the Court encourages the agency to create procedures to facilitate the discovery of this type of potential conflict in a timely manner. The Court nevertheless grants the requested extension because the requested deadline is only until March 4, 2022.

Accordingly, **IT IS ORDERED:**

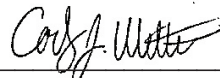
1. The motion to sever the Rule 45 issue from these appeals and to appoint conflict-free counsel to represent Redfox on the Rule 45 issue is **GRANTED**.

2. The Office of Public Advocacy is appointed to represent Redfox on the Rule 45 issue. The Office of Public Advocacy is directed to promptly assign an attorney to this case and to have that attorney file an entry of appearance. Once appointed counsel enters an appearance, the Clerk's Office will establish a briefing schedule on the Rule 45 issue.

3. The motion for a non-conforming extension of time is **GRANTED** because of extraordinary circumstances. Redfox's brief is now due on or before **March 4, 2022**.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts



---

Carly Williams, Deputy Clerk

cc: Court of Appeals Judges  
Office of Public Advocacy  
Distribution:

Email:  
Cella, Rachel E., Public Defender  
Simel, Nancy R